

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JULY 1, 2003
7:00 P.M.**

ROLLCALL Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Housh and seconded by Member Hovland approving the Council Consent Agenda as presented with the exception of Agenda Item IV. B., Sherwood Park Playground Equipment; Agenda Item IV. C., City Hall/Police Department Security Access Control System and CCTV; Agenda Item IV. E., Four Monitor/Defibrillators - Fire Department; and Agenda Item IV.F., Engineering Survey Van.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

EDINA POLICE DEPARTMENT RECIPIENT OF CORNERHOUSE PRESENTATION

Amy Russell, Executive Director of Cornerhouse, an interagency child abuse evaluation and training center that conducts forensic interviews for children and developmentally delayed adults appeared with a check for the Edina Police Association. Ms. Russell explained that a fundraiser was been held recently, attended by Josh Hartnett, Actor and star of "Hollywood Homicide" at the Southdale Cinema. The Edina Police Department provided security services for the event. Ms. Russell thanked the Police Department for their help and presented her check to Chief Siitari.

***MINUTES OF THE REGULAR MEETING OF June 17, 2003, APPROVED** Motion made by Member Housh and seconded by Member Hovland, approving the Minutes of the Regular Meeting of the Edina City Council for June 17, 2003.

Motion carried on rollcall vote - four ayes.

***HEARING DATE SET OF JULY 15, 2003, FOR PLANNING MATTERS** Motion made by Member Housh and seconded by Member Hovland setting July 15, 2003, for the following planning matters:

1. Final Rezoning request from POD-1, Planned Office District to PCD-2, Planned Commercial District for Madison-Marquette. Generally located east of York Avenue and north of West 66th Street (3100 West 66th Street);
2. Final Development Plan request for Four Crown Inc., (Vulcan Properties/Wendy's). Generally located in the northeast corner of Yorktown Shopping Mall; and
3. Preliminary Plat Approval of Gearen Hill. (James Gearen) Generally located east of Highway 169, south of the Crosstown Highway, west of Gleason Road and north of Valley View Road (6608 Dakota Trail).

Motion carried on rollcall vote - four ayes.

*RESOLUTION NO. 2003-45, LOT DIVISION APPROVED FOR 5600 AND 5604 HIGHLAND ROAD (ROBERT LOMICKA) Motion made by Member Housh and seconded by Member Hovland approving the following resolution:

RESOLUTION NO. 2003-45

LOT DIVISION

5600 AND 5604 HIGHLAND ROAD

WHEREAS, the following described properties are at present two tracts of land:

Lot 6, COUNTRYSIDE, Hennepin County, Minnesota,

and

Lot 7, COUNTRYSIDE, Hennepin County, Minnesota

PARCEL 1:

Lot 6, Block 6 and that part of Lot 7, Block 6, COUNTRYSIDE, Hennepin County, Minnesota lying southerly and westerly of the following described line:

Commencing at the northwest corner of said Lot 7; thence southeasterly along the west line of said Lot 7 a distance of 152.99 feet; thence northeasterly at right angles a distance of 7.45 feet; thence southeasterly at right angles parallel with the west line of said Lot 7 a distance of 120.00 feet to a point on the south line of said Lot 7 distant 7.49 feet northeasterly from the southwest corner of said Lot 7 as measured along the southerly line of said Lot 7 and there terminating.

PARCEL 2:

Lot 7, Block 6, COUNTRYSIDE, Hennepin County, Minnesota except that part lying southerly and westerly of the following described line:

Commencing at the northwest corner of said Lot 7; thence southeasterly along the west line of said Lot 7 a distance of 152.99 feet to the point of beginning of the line to be described; thence northeasterly at right angles a distance of 7.45 feet; thence southeasterly at right angles parallel with the west line of said Lot 7 a distance of 120.00 feet to a point on the south line of said Lot 7 distant 7.49 feet northeasterly from the southwest corner of said Lot 7 as measured along the southerly line of said Lot 7 and there terminating.

WHEREAS, the requested land transfer is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said newly created Parcels as separate tracts of land do not interfere with the Subdivision and Zoning Regulations as contained in the Edina City Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the above described tracts of land (PARCEL 1 and PARCEL 2) as separate tracts of land are hereby approved and the requirements and provisions of code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 subject to the limitations set out in Code Section 850 and said Ordinances are now waived for any other purpose or as to any other provisions thereof, and further subject,

however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina.

Adopted this 1st day of July, 2003.

Motion carried on rollcall vote – four ayes.

***RESOLUTION NO. 2003-46 - LOT DIVISION APPROVED FOR 5120 WINDSOR AVENUE AND 5117 RICHMOND DRIVE (STEVE STRONCEK AND STEVE HONG)**

Motion made by Member Housh and seconded by Member Hovland approving the following resolution:

**RESOLUTION NO. 2003-46
LOT DIVISION
5120 WINDSOR AVENUE AND
5117 RICHMOND DRIVE**

WHEREAS, the following described properties are at present two tracts of land:

Lot 1, Block 3, RICHMOND HILLS, Hennepin County, Minnesota

and

Lot 6, And Lot 7, Block 2, WESTCHESTER KNOLLS, Hennepin County, Minnesota.

WHEREAS, the owners have requested the following land transfer as follows:

PARCEL A:

Lot 1, Block 3, RICHMOND HILLS, Hennepin County, Minnesota and the Northerly 20.00 feet of Lot 6 and Lot 7, Block 2, WESTCHESTER KNOLLS, Hennepin County as measured at right angles to the North line of said Lots 6 and 7.

PARCEL B:

That part of Lot 6 and Lot 7, Block 2, WESTCHESTER KNOLLS, Hennepin County lying southerly of the Northerly 20.00 feet of said Lot 6 and Lot 7 as measured at right angles to the North line of said Lots 6 and 7.

WHEREAS, the requested land transfer is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said newly created Parcels as separate tracts of land do not interfere with the Subdivision and Zoning Regulations as contained in the Edina City Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the above described tracts of land (PARCEL A and PARCEL B) as separate tracts of land are hereby approved and the requirements and provisions of code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 subject to the limitations set out in Code Section 850 and said Ordinances are now waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina.

Adopted this 1st day of July, 2003.

Motion carried on rollcall vote – four ayes.

ORDINANCE NO. 2003-8 APPROVED - ADDING NEW SECTION 640, LICENSING FIREWORKS SALES AND AMENDING SECTION 185.01, SCHEDULE A, BY ADDING A FEE FOR SALE OF FIREWORKS IN CITY OF EDINA Mr. Hughes stated the requested clarifications had been made relating to the storage of fireworks to the proposed ordinance.

Member Masica made a motion to grant second reading to Ordinance No. 2003-8 as follows:

EDINA ORDINANCE NO. 2003 - 8

**An Ordinance Amending The City Code By
Adding A New Section 640 - Sale Of Fireworks**

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. The City Code is hereby amended by adding a new Section 640 as follows:

"Section 640 -Sale of Fireworks

- 640.01 License Required.** No person shall store for later sale, offer for sale, expose for sale, or sell at retail or wholesale any fireworks permitted for sale or use by Minnesota Statutes 624.20 through 624.25 without obtaining a license in accordance with this Section. The provisions of Section 160 of this Code shall apply to all licenses required by this Section and to holders of such licenses. The term of the license shall be April 1 to March 31.
- 640.02 Application for License.** The application for a license shall be made on forms provided by the Fire Chief. The application shall be accompanied by the fee in the amount set forth in Section 185 of this Code.
- 640.03 Issuance of License.** The Fire Chief shall issue a license upon finding that all the requirements of the City Code and National Fire Protection Association Standard 1124 (2003 Edition) have been met.
- 640.04 Compliance with Zoning Ordinance.** No person shall store for later sale, offer for sale, expose for sale, or sell at wholesale or retail any fireworks unless in full compliance with Section 850 of this Code. Sales from motor vehicles, trailers, tents or other temporary structures or shelters or from temporary stands located outside of a permanent building are expressly prohibited."

Section 2. Section 185 of the City Code is amended as follows:

<u>"SECTION</u>	<u>SUBSECTION</u>	<u>PURPOSE OF FEE OR COST</u>	<u>AMOUNT</u>
640	640.02	Sale of Fireworks	\$100/year"

Section 3. This ordinance shall be in full force and effect upon passage and publication.

First Reading: June 17, 2003
Second Reading: July 1, 2003
Published: July 17, 2003

Attest

City Clerk

Mayor

Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

FIRST READING GRANTED - ORDINANCE NO. 2003-9, ADDING NEW SECTION 1225, ESTABLISHING A TRANSPORTATION COMMISSION

Mr. Hughes noted the Council at its June 17, 2003, meeting reviewed an initial draft of Ordinance No. 2003-9 establishing a Transportation Commission. He stated that based upon comments received at that time, staff revised the ordinance. Mr. Hughes pointed out the revision to paragraph A of Section 1225.02 Purpose and Duties, concerning the Commission's role in the operation and management of Edina's local street system. Mr. Hughes said Section 1225.03 Membership, had also been revised to include a student representative.

Mr. Hughes added that as directed, staff had prepared alternatives with respect to the geographic distribution of Commission members:

1. No change to proposed language. The current language does not require geographic distribution of Commission members. None of Edina's advisory boards and commissions require geographic distribution of members and arguably, the Transportation Commission would be no different than the other boards and commissions.
2. Suggest geographic distribution. Under this alternative, relevant ordinance language under Section 1225.03, would be as follows: The mayor shall endeavor to appoint members such that the Commission is reflective for the different geographic areas of the City." Under this language geographic distribution would be encouraged, but not necessarily mandated.
3. Mandate geographic distribution. "The Mayor, with the consent of the Council shall appoint members to the Commission such that each of the four quadrants of the City as created by the Crosstown Highway and TH 100 would be equally represented on the Commission. The Chair of the Commission shall be appointed by the Mayor without regard to place their place of residence in the City". Based upon this alternative, the size of the Commission would probably be expanded to nine members.

Member Masica stated that in her opinion geographic distribution should be mandated. She said in order to truly understand unique traffic patterns in one locale, a person had to experience it, not just make transitory visits.

Member Hovland said he did not favor mandating geographic distribution. He noted that all current advisory boards serve at large. Member Hovland said the City Council serves at large pointing out the City of Edina did not have wards. He said he wanted the most qualified persons serving on the Commission. Member Hovland suggested following the second alternative of suggesting geographic balance, noting that the Mayor would endeavor to appoint persons representing all quadrants of the City.

Mayor Maetzold agreed with Member Hovland stating that from a practical standpoint it might prove difficult to find persons willing and able to serve from all geographical areas. Mayor Maetzold said he would not want to preclude a highly qualified individual from serving because of a geographic mandate.

Minutes/Edina City Council/July 1, 2003

Member Housh stated he felt diversity of viewpoint was very important to this Commission, but agreed with a suggested, not mandated geographic representation.

Member Masica stated that traffic was a very emotional issue and she wanted to make sure all interested qualified candidates were considered. Member Housh agreed with Member Masica but reiterated his belief that the composition should be suggested not mandated geographically.

Member Hovland said that if it became apparent that there was no balance on the Commission, the ordinance could be changed to mandate the Commission's composition in the future. Mayor Maetzold assured everyone that the Commission would be balanced in composition.

Member Hovland made a motion granting First Reading to Ordinance No. 2003-9 adding new Section 1225 establishing a Transportation Commission using proposed Alternative 2 for Section 1225.03 Membership. Member Housh seconded the motion.

Ayes: Housh, Hovland, Maetzold

Nay: Masica

Motion carried.

PROPOSED ORDINANCE AMENDING SECTION 900.10, SUBD 7 - HOURS OF SALE DISCUSSED; MOTION FAILED Affidavits of Notice were presented, approved and ordered placed on file.

Member Housh asked why the Council would consider adopting an ordinance that would establish a closing time different than State Law. He stated he felt the City should not retain the 1:00 a.m. closing, but rather be uniform to State Law.

Mayor Maetzold noted that Edina only issues liquor licenses to restaurant and the two country clubs. The City's Code does not allow liquor licenses to be issued to bars and Mayor Maetzold stated he supported retaining the 1:00 a.m. closing time.

Member Masica said she agreed with Member Housh that the City should follow state law and keep the closing time uniform.

Member Hovland asked if there would be additional cost for enforcement in keeping establishments open another hour; and could the Council at a later date choose to go back to the 1:00 a.m. closing time. Chief Siitari answered that due to the nature of the licensed establishments in Edina, he did not believe allowing a 2:00 a.m. opening would increase enforcement costs. Attorney Gilligan stated that there could be difficulties in attempting to return to a 1:00 a.m. closing since businesses would have already had the 2:00 closing time.

Member Housh reiterated his desire to maintain a uniform closing time with the rest of the state.

Member Masica stated the City did not have clubs and most likely their establishments would not stay open until 2:00 a.m., but she agreed with Member Housh that the City should be uniform with State law.

Mayor Maetzold said it should be remembered that when the City held the election to allow the intoxicating liquor it was only for restaurants, not for bars. He added that retaining the 1:00 a.m. closing time would be more in line with the City's philosophy.

Member Hovland agreed with Mayor Maetzold and stated he was in favor of retaining the 1:00 a.m. closing time.

Nancy Kuphal, 5500 McGuire Road, stated she felt the City should be uniform with State law.

Member Masica made a motion to close the public hearing. Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Masica

Motion carried.

Member Hovland made a motion granting First Reading to Ordinance No. 2003-10 amending Section 900.10 Subd. 7 Hours of Sale to retain the 1:00 a.m. closing Monday through Saturday evenings. Mayor Maetzold seconded the motion.

Ayes: Hovland, Maetzold

Nays: Housh, Masica

Motion failed due to lack of majority.

***AWARD OF BID FOR FIBEROPTIC CABLING FOR CITY HALL TO ECC WATER TOWER** Motion made by Member Housh and seconded by Member Hovland for award of bid for fiber optic cabling for City Hall to Edina Community Center water tower to recommended low bidder, T-Ray Construction Company at \$18,244.00.

Motion carried on rollcall vote - four ayes.

BID AWARDED FOR SHERWOOD PARK PLAYGROUND EQUIPMENT Member Hovland removed the award of bid for Sherwood Park Playground Equipment from the consent agenda for further information. He inquired whether the neighborhood had input into the plans for the park. Director Keprios said after a laborious attempt to involve the public in the park plan, some suggestions were received.

Member Hovland made a motion approving the award of bid for the Sherwood Park Playground Equipment to recommended low bidder, Koolmo Construction, Inc., at \$94,191.00 plus tax.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

BID AWARDED FOR CITY HALL/POLICE DEPARTMENT SECURITY ACCESS CONTROL SYSTEM AND CCTV Member Hovland removed the award of bid for City Hall/Police Department the security access control system and closed circuit television for further information. He inquired whether there was a line item on the budget for City Hall. Assistant Manager Anderson responded this item was a part of the technology portion of the City Hall/Police Department budget. He explained that ultimately the amount budgeted for the system and CCTV would be over budget because the security system for City Hall was

Minutes/Edina City Council/July 1, 2003

added after the technology budget was approved. Member Hovland asked if only one bid was received for this system. Mr. Anderson said the bid was under state contract.

Member Hovland made a motion for award of bid for the City Hall/Police Department Security Access Control System and Closed Circuit Television to recommended sole bidder, Pro-Tec Design, Inc., in the amount of \$173,438.00 under State of Minnesota Contract. Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***AWARD OF BID FOR 4 X 4 COMPACT PICKUP TRUCK FOR PARK MAINTENANCE DEPARTMENT Motion made by Member Housh and seconded by Member Hovland for award of bid for 4 x 4 compact pickup truck for the park maintenance department to sole bidder, Thane Hawkins Chevrolet, under Hennepin County Contract #1109A2, at \$15,688.00 plus tax.**

Motion carried on rollcall vote – four ayes.

AWARD OF BID FOR FOUR MONITOR/DEFIBRILLATORS – FIRE DEPARTMENT

Member Hovland removed the bid for four monitor/defibrillators for the Fire Department from the consent agenda for additional information. He asked how these four defibrillators fit into the mix with the units received from Fairview Southdale Hospital. Chief Scheerer noted that the Fire Department used more extensive, advance life support units. The other units were basic, automatic, external defibrillators but were made by the same manufacturer.

Member Hovland made a motion for award of bid for four monitor/defibrillators for the Fire Department to sole bidder, Medtronic Physio-control monitor defibrillators, purchased through the North Central EMS Cooperative, at \$84,646.20. Member Masica seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

AWARD OF BID FOR ENGINEERING SURVEY VAN Member Masica said she removed the award of bid for an engineering survey van for more information. She inquired why a ¾ ton cargo van would be more desirable than a 1 ton. Engineer Houle explained the extra four feet of length of the 1-ton van was more of a safety issue on construction sites. The 1-ton van would be a ‘gutted’ van and would require the same amount of money for headliners and installation.

Member Masica made a motion for award of bid for the difference between a 1-ton and a ¾ ton cargo van for the engineering survey van replacement to recommended sole bidder, Nelson GMC under Hennepin County Contract #1109A2 at \$2,373.66. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

NEW WINE AND ON-SALE 3.2 BEER LICENSES FOR NEW DELHI INDIAN BISTRO (7078 AMUNDSON AVENUE) Manager Hughes explained New Delhi Indian Bistro applied for a new on-sale wine and 3.2 beer license at 7078 Amundson Avenue. Necessary paperwork had been filed and applicable fees paid. He noted that the Administrative, Health, Planning and Police Departments have all reviewed the application with no negative findings and staff recommended the Council grant the requested licenses.

Member Masica made a motion approving on-sale wine and 3.2 beer licenses for the New Delhi Indian Bistro at 7078 Amundson Avenue for the period of, July 1, 2003, through March 31, 2004. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***RESOLUTION NO. 2003-44, APPROVING COOPERATIVE AGREEMENT WITH MnDOT - SOIL CORRECTION OF CROSSTOWN RAMP** Motion made by Member Housh and seconded by Member Hovland introducing the following resolution and moving its adoption:

RESOLUTION No. 2003-44

COOPERATIVE AGREEMENT WITH MnDOT

FOR SOIL CORRECTION OF CROSSTOWN RAMP

BE IT RESOLVED that the City of Edina, enter into Mn/DOT Agreement No. 77640 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City of the State's share of the costs of the ramp soil correction construction and other associated construction to be performed upon, along and adjacent to Trunk Highway No. 62 at the Valley View exit ramp and on Valley View Road within the corporate City limits under State Project No. 2774-13 (T.H.62=384), State Aid Project No. 120-010-09 and State Aid Project No. 120-150-06.

IT IS FURTHER RESOLVED that the Mayor and City Manager are authorized to execute the Agreement and any amendments to the Agreement.

Passed and adopted this 1st day of July, 2003

Motion carried on rollcall vote - four ayes.

VISION 20/20 UPDATE PRESENTED Manager Hughes presented a redlined copy of Edina's Vision 20/20 with minor changes portrayed. He said staff recommended adoption of the update.

Following a brief Council discussion, **Member Masica made a motion adopting Edina's Vision 20/20 update with the Council's recommended changes.** Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

APPOINTMENTS MADE TO BOARDS, COMMISSIONS, COMMITTEES Mayor Maetzold suggested appointing Spencer Anderson, Edina High School student, to the Community Health Committee for a term of one year.

Minutes/Edina City Council/July 1, 2003

Mayor Maetzold made a motion appointing Spencer Anderson, an Edina High School student to the Community Health Committee for a term of one year. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

Mayor Maetzold informed the Council George Kuebler had recently resigned from the Art Center Board. An application has been received from a former Art Center Board Member, Heather Randall King, seeking to fill the vacancy left by Mr. Kuebler.

Mayor Maetzold made a motion appointing Heather Randall King to the Art Center Board to fill the unexpired term of George Kuebler to February 1, 2005. Member Masica seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

Mayor Maetzold informed the Council of his intent to appoint Member Masica as the Council Representative to the Community Education Services Board for term to June 30, 2004.

Mayor Maetzold made a motion appointing Linda Masica as Council Representative on the Community Education Services Board for term to June 30, 2004. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Member Housh made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated June 19, 2003, and consisting of 41 pages: General Fund \$167,186.42; CDBG Fund \$37.00; Communications Fund \$2,800.00; Working Capital Fund \$709,815.80; Construction Fund \$380,691.01; Art Center Fund \$2,653.58; Golf Dome Fund \$743.22; Aquatic Center Fund \$5,199.62; Golf Course Fund \$13,587.19; Ice Arena Fund \$27,961.41; Edinborough/Centennial Lakes Fund \$17,817.10; Liquor Fund \$182,650.75; Utility Fund \$428,951.62; Storm Sewer Fund \$30,660.07; Recycling Fund \$31,234.41; PSTF Agency Fund \$27,551.03; TOTAL \$2,029,540.23; and for approval of payment of claims dated June 25, 2003, and consisting of 45 pages: General Fund \$333,479.15; Communications Fund \$15,560.33; Working Capital Fund \$209,036.89; Construction Fund \$251,799.45; Art Center Fund \$21,918.24; Aquatic Center Fund \$40,276.76; Golf Course Fund \$42,765.81; Ice Arena Fund \$4,218.04; Edinborough/Centennial Lakes Fund \$10,199.76; Liquor Fund \$130,186.81; Utility Fund \$22,990.73; Storm Sewer Fund \$8,684.87; PSTF Agency Fund \$712,481.00; TOTAL \$1,803,597.84.

Motion carried on rollcall vote – four ayes.

COMPREHENSIVE ANNUAL FINANCIAL STATEMENT (CAFR) FOR 2002 RECEIVED

Director Wallin presented Edina's Comprehensive Annual Financial Statement (CAFR) for 2002 and commented that again this year, no management letter had been received from the Auditors noting concerns or suggested changes to the City of Edina's financial system.

Following positive Council acclamations, of the Financial/Audit process, Member Hovland made a motion approving receipt of the Comprehensive Annual Financial Statement (CAFR) for 2002, as presented. Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***RESOLUTION NO. 2003-43 APPROVED - AUTHORIZING INVESTMENT AGREEMENT** Motion made by Member Housh and seconded by Member Hovland approving Resolution No. 2003-43 as presented:

**RESOLUTION NO. 2003-43
A RESOLUTION AUTHORIZING
INVESTMENT AGREEMENT**

BE IT RESOLVED, that Gordon Hughes and/or John Wallin who is/are Officer's of the City of Edina, is/are authorized to enter into agreements or commitments to open, maintain and close accounts with banks, brokers and other financial institutions with which it does business, and are authorized to sign on individual bank and broker accounts and such Officers are further authorized to cancel such authority, and

BE IT FURTHER RESOLVED, that John Wallin and/or Peggy Gibbs is/are authorized to purchase or sell any and all securities as authorized by the City of Edina's Investment Policy (as attached), and that the Officer is authorized on behalf of the City of Edina to sign any necessary documentation: to give written or oral instructions with respect to said transactions: to obligate the City for the carrying out of any contract, agreement, or transaction; to pay by check or wire; and to take any and all such actions in the name of and on behalf of said City that would be considered desirable and necessary with respect to said transaction; and

BE IT FURTHER RESOLVED that the bank, broker or other financial institution may rely upon the actions of the Officer as the City of Edina representative that any and all securities purchased are legal and authorized investments under the City's applicable policies and/or statutory requirements. The city of Edina represents that it will provide these applicable policies and/or statutory requirements, and that it will notify the bank, broker or other financial institution of any changes made; and

BE IT FURTHER RESOLVED that the Clerk of the City of Edina is authorized and directed to certify, under the seal of the City of Edina, to you a true copy of these resolutions and specimen signatures of each and every person empowered by these resolutions; and

I FURTHER CERTIFY that said resolutions shall continue in full force and effect, until revoked or modified by the Edina City Council and written notice is received by the bank, broker or other financial institution, such notice setting forth a resolution adopted to effect said revocation or modification and authorizing the new signatory and/or person authorized to obligate the City of Edina securities transaction.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the City of Edina this first day of July 2003, by order of the Edina City Council.

Motion carried on rollcall vote - four ayes.

CONCERNS OF RESIDENTS

Alan Goltzman, 5720 Abbott Avenue, voiced concern with the City's Code of Ordinances pertaining to the height of residential fences. He said his neighbor at 5716 Abbott Avenue

Minutes/Edina City Council/July 1, 2003

recently built an eight-foot fence abutting his property. After contacting the City, Mr. Goltzman was told the maximum height of a fence was eight-feet. Upon checking the fence, he found only one fence post measured eight-feet. The installer of the fence said many times dirt was used to make the fence comply with the eight-foot limit. Mr. Goltzman asked if the fence owner was back filling dirt on the posts, if both sides of the fence should be backfilled. Mr. Goltzman asked what the purpose was of an Ordinance that cannot be enforced. He stated that his second issue was an eight-foot fence with a five-foot setback did not enhance the neighborhood.

Member Housh asked if he knew what type of fence was going to be installed before it went up. Mr. Goltzman said no.

Mr. Hughes explained that fence height was deliberated extensively when the Zoning Ordinance was codified.

Member Masica inquired what the hardship was being suffered by Mr. Goltzman. Mr. Goltzman responded there was a view of the fence from their windows where it was over eight-feet in height.

Member Hovland said upon examination, the fence appears out of scale for the area. He suggested staff look at the Ordinance to see if it could be more explicit.

Planner Larsen said he believed the Ordinance has worked well. He stated that some parameters must be established and eight feet has been workable, but added staff could certainly review the issue of maximum heights of fences relative to the surrounding neighborhood.

Mr. Hughes indicated that in smaller lot neighborhoods with a five-foot setback requirement, the fence standard might need to be six feet rather than eight feet, to track more with the scale of the neighborhood.

No formal Council action was taken.

Christine Bishop, 5716 Abbott Avenue South, indicated she was the owner of the fence in question and said she has tried to comply with all Edina Ordinances – 1) the lot was surveyed, 2) permit acquired from the City, and 3) fence posts were measured by the City and found in compliance. Ms. Bishop explained the need for privacy at her home has grown with the Goltzmans many additions. The eight-foot fence does create some privacy for her family.

Hugh Bishop, Attorney for the Bishops, stated that ‘anytime the City wanted to regulate something and take away one or more rights of the owner, it was for something that cannot be measured.’ Mr. Bishop presented pictures of the two lots, pointing out the un-level ground and the close proximity of the Goltzman’s home to the lot line. He said with this close proximity, the fence’s scale seemed appropriate. He said the question was whether it was appropriate to bring in soil to even out the land. If the purpose of the Ordinance was to bring

out the quality of appropriateness of scale, there could be a difference of two inches and yet reach the desired result. He stated the homeowner did nothing wrong and had not attempted to be malicious, just wished for more privacy. He concluded that the Ordinance should be left alone.

Dave Kuso, Landmark Fence, explained he has been building fences for eighteen years and the subject fence as installed in his opinion, met all Ordinance requirements.

Member Housh commented he has seen statistic sheets of measurements on both sides of the fence. He questioned which statistics must meet the requirement in order for the City to sign off on the permit. Building Official Kirchman explained that fences were usually only measured on the property that has a permit.

Member Hovland asked what a 'fence issue' would be. Mr. Kirchman said much depends on the inspector's perception of grade, etc.

Member Masica suggested language stating a fence height measurement of eight feet should be taken from the 'original grade'.

Mr. Hughes said staff would examine the Ordinance pertaining to height of fences and bring the issue before the Planning Commission.

Herman Baines, 6101 Tracy Avenue, said he has been a gardener for a number of years and every year his garden was destroyed by the deer. He contended that being able to grow a garden on his property was a reasonable use for his property and he was seeking help with eliminating this destructive nuisance. He further inquired what he, as a resident of Edina who wants to grow a garden, could do. Mr. Hughes said the City has had a deer program for 10-12 years and progress has been made. Park Superintendent Cockriel noted that the program has forced the herd to the northwest portion of Edina. He stated that Bredeson Park might be a harvesting spot for next fall.

Nancy Kuphal, 5500 McGuire Road suggested the ideal number of deer for Edina should be 30. She stated the reason for her attendance was for help with the removal of her 40 year-old maple tree that was lost in the storm. She stated she did not live in the designated area and had been told to take her tree debris to one of two drop off sites. She had been told she could not hire someone to pick up her debris and dump it as no commercial haulers were allowed in the dumpsites. Mr. Cockriel said commercial haulers have abused the dumpsites in the past and that was why the policy was established, however, in this case Ms. Kuphal could accompany her contractor to either dumpsite.

Mayor Maetzold explained historically property clean up was the responsibility of the homeowner. Tree debris that falls in the street would be the City's responsibility.

Mr. Hughes said the estimated cost of storm clean up was currently at \$250,000.00. Federal funds paperwork has been received for funds from FEMA. Full-time staff was working 10-14

Minutes/Edina City Council/July 1, 2003

hours day and the City has rented equipment to help with the clean up. The contingency budget will used to cover the expenses of this storm's clean up.

Member Housh inquired how FEMA funds were acquired and whether a 'disaster area' needed to be declared. Mr. Cockriel said there possibly might be a collaborative effort with Hennepin County showing the impact the storm had on the community.

Member Masica said she had visited with residents in the storm area and was told that there was extreme gouging happening from tree service companies.

The Council reviewed the City's policy regarding clean up from the storm.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:10 P.M.

City Clerk